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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,577	06/24/2003	Soren Christrup	3764-147	8211
23117	7590	03/08/2004	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			LEWIS, AARON J	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,577

Applicant(s)

CHRISTRUP ET AL.

Examiner

AARON J. LEWIS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities: In line 4, "...the resilient loading member..." is not consistent with the initial recitation of "...a resilient loading element..." nor is the line 4 recitation consistent with a subsequent recitation of "...the resilient loading element..." in lines 5,6,8,9. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ritson et al. ('866).

As to claim 1, Ritson et al. disclose an inhaler for delivering medicament by inhalation, comprising: a housing (6) for holding a canister (30) of medicament having a body (31) and a valve stem (32) compressible together to actuate the canister to deliver a dose of medicament from the valve stem; an actuation mechanism (200,210) for compressing the canister; a canister re-set mechanism (300 and col.23, lines 17-27) comprising a locking element (312) for locking the canister in a compressed state (col.22, lines 37-46) and a release member resiliently biased (220) by the actuation mechanism on compression of the canister to release the locking mechanism to allow reset of the canister (col.22, lines 60-68).

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As to claim 2, Ritson et al. disclose the canister reset mechanism to further comprise a damping element for damping movement of the release member to delay the action of the resilient biasing to release the locking element a predetermined period of time after actuation of the canister (col.22, lines 37-68).

As to claim 5, Ritson et al. (col.20, lines 12-21) disclose the locking element being a knee joint (318,319) having a locked position for holding the canister in a compressed state and the release member engages the knee joint to break the knee joint into a broken position for releasing the canister.

As to claim 6, Ritson et al. (col.22, lines 18-68) disclose the actuation mechanism to comprise a pre-loading mechanism for loading a resilient loading element (210) with an actuation force using a loading member (220) coupled to the resilient loading member and movable from a first position where the resilient loading element is relaxed to a second position where the resilient loading element is loaded, the resilient loading element being arranged when loaded to bias compression of the canister; and a triggering mechanism (312) arranged to hold (236) the resilient loading element against compression of the canister and to release the resilient loading element to allow compression of the canister (col.22, lines 18-29).

As to claim 7, the locking element (312) of Ritson et al. (col.22, lines 37-46) is arranged to lock the loading member in its second position for locking the canister in its compressed state after release of the triggering mechanism.

As to claim 8, Ritson et al. (col.19, lines 6-44) disclose the pre-loading mechanism to comprise a canister engagement member (240) biased by the resilient loading element

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(220) when loaded to compress the canister (col.19, lines 29-37), the triggering mechanism engaging the canister engagement member (col.19, lines 34-37) to hold and release the stored actuation force, wherein the release member is resiliently biased by a resilient element (326) acting between the canister engagement member and the release member.

Allowable Subject Matter

4. Claims 3,4,9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

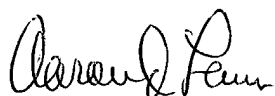
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of the art is cited to show relevant inhalers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON J. LEWIS whose telephone number is (703) 308-0716. The examiner can normally be reached on 9:30AM-6:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HENRY A. BENNETT can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AARON J. LEWIS
Primary Examiner
Art Unit 3743

Aaron J. Lewis
February 29, 2004